

June 14, 1951

NSC DETERMINATION NO. 1

REPORT BY THE NATIONAL SECURITY COUNCIL

regarding

AN INTERIM GENERAL EXCEPTION UNDER SECTION 1302
OF THE THIRD SUPPLEMENTAL APPROPRIATION ACT, 1951

I. Background

1. Section 1302 of the Third Supplemental Appropriation Act, 1951 (Public Law 45, approved June 2, 1951), directs that no economic or financial assistance shall be provided to any foreign country which, after 15 days following its enactment, exports or knowingly permits the export of certain named categories of commodities to the Soviet bloc during any period in which the Armed Forces of the United States are actively engaged in hostilities in carrying out a decision of the Security Council of the United Nations. In order to be eligible for economic or financial assistance each country must certify that after the prescribed period it has not exported or knowingly permitted the export of the prohibited items to the Soviet bloc.

2. Section 1302 requires that the Secretary of Defense certify to the Economic Cooperation Administrator a list of specified articles or commodities. The list in question was certified on June 5, 1951, and is attached as Appendix 1.

3. Section 1302 authorizes the National Security Council to make exceptions to its several provisions upon an official determination that such exceptions are in the security interest of the United States.

4. The terms of Section 1302 apply to a wide variety of economic and financial assistance programs. They pertain to loans and grants such as those made by the Economic Cooperation Administration to many Export-Import Bank loans (such as loans to various Latin American countries for the strengthening of basic industries or for expanding the production of strategic minerals), and to a variety of agricultural, health, and development and technical assistance projects carried on largely under the Point IV Program. In addition to general programs conducted under a broad authority granted by the Congress, they apply to a number of assistance measures authorized individually by specific legislation, such as those for the loan to Spain and for aid to Yugoslavia. The provisions of Section 1302 apply to some 60 countries receiving some form of economic assistance, even though it may be very limited in many cases. (See Appendix 2.) In support of the various general and special assistance measures,

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the Congress has appropriated several billion dollars in recent years, largely with the security interests of the United States in view.

5. The evident objective of the legislation is to stop the flow to the Soviet bloc of commodities significant to the military potential of that area and by this means to strengthen the security of the free world. With this same objective in view, and in accordance with the terms of previous legislation,* the National Security Council has had under continuous scrutiny the trade between the countries which receive economic and financial assistance from the United States and the countries of the Soviet bloc. Moreover, during a period of more than two years the United States has had continuing discussions with the more important countries trading with the Soviet bloc for the purpose of obtaining the establishment of effective controls over this trade. As a result, prohibitions have been established against the export to the Soviet bloc of a wide range of strategically important commodities. Necessarily, detailed information regarding these measures has not been and cannot be made public. However, the countries which have been cooperating in this effort do not control their exports as closely and completely as would be required to meet the provisions of Section 1302. Indeed, these and most other countries receiving economic or financial assistance have been and presumably are now exporting to the Soviet bloc some items appearing on the list certified by the Secretary of Defense.

6. Section 1302 has required the Secretary of Defense to certify a list of articles or commodities which "may be used" in the manufacture of arms, armaments and military materiel, even though some of these articles and commodities have little or no strategic value. He has certified a list including 1700 categories of articles and commodities, some of which are general categories containing large numbers of items.

7. It is doubtful whether it is possible for any system to be devised which would provide the necessary basis for current certifications under Section 1302. It would clearly be impossible within the time allotted. The mere mechanical processes of duplicating and transmitting the new and extensive list of commodities to foreign governments alone would exhaust the time period specified. Furthermore, the translation of the list, which involves, as experience in this field has shown, intricate problems of interpretation and definition of technical terms, requires considerable time. In addition to these processes, moreover, it would be necessary in all cases for new determinations to be reached, new export control regulations and procedures to be adopted, and effective administration provided for.

* Section 1304, Public Law 84-3

Actually, in a number of countries new legislation would be necessary. Even if there were no political considerations or other such factors affecting the adoption of these controls by foreign countries, it would be impossible for them to meet the requirements of Section 1302 in the time provided. If placed in parallel circumstances, neither could the United States.

II. Problem

8. In the circumstances, therefore, the National Security Council must, in meeting its responsibilities under Section 1302, adopt one of the following three alternative decisions:

a. Decide that the security interests of the United States would best be served by discontinuing aid to all recipient countries.

b. Decide that the security interests of the United States would best be served by determining at this time that the aid presently being extended to recipient countries should be continued without modification.

c. Decide, on an interim basis, that the aid to all recipient countries should be continued while further intensive efforts are being made to strengthen the export controls of recipient countries, and pending the completion of a reexamination of the varying situations of individual countries in the light of the requirements of Section 1302.

III. Examination of Alternatives

9. First Alternative

a. To adopt the first of the three stated alternatives, that is, to discontinue aid to all countries, would be to ignore the commanding importance of the purpose of our foreign aid programs. The purpose of economic and financial assistance to friendly countries is to strengthen the individual and collective defenses of the free world, to develop their resources in the interest of their security and independence and the national interest of the United States, and to facilitate the effective participation of these countries in collective security arrangements. In some countries the aid is assisting the construction of industrial facilities required to produce weapons for defense. In others it assists the development of mineral resources needed for stockpiles and for immediate consumption by ourselves and our allies. In still others it assists in withstanding internal and external threats to independence.

b. Even though aid could later be resumed, the interruption to the pipeline of aid would weaken the security efforts of recipient countries; more important, discontinuance of unknown duration would throw into uncertainty plans of the recipients, including their military build-up, their development of strategic materials production, and other actions in the security interest of the free world now based on the expectation of continued American assistance. Moreover, discontinuance would interrupt the flow of goods in this country, distorting shipping schedules and, in many instances, seriously interfering with bona fide contracts made with American exporters.

c. There remain gaps and defects in controls over the movement of strategic commodities to the Soviet bloc. However, if in the face of what has been accomplished and in disregard of the cooperation already achieved, we were to discontinue all aid to all countries, our own reliability would be called into question and we would threaten both the will and the capacity of our associates to maintain the controls they now have.

d. A blanket termination of aid would, in short, jeopardize the security of the United States and, indeed, the security of the whole free world. The National Security Council rejects this alternative.

10. Second Alternative

a. To adopt the second alternative suggested above, that is, to continue aid without modification, would be to indicate that the National Security Council is satisfied with the measures now being taken by countries currently receiving assistance from the United States to limit and curtail their trade with the Soviet bloc. This is definitely not the case.

b. There have been features about the trade of various countries with the Soviet bloc which have caused the United States concern. We have not hesitated to express this concern and energetically to seek correction of its causes. As a result of the negotiations thus initiated, the trade of the free countries with the Soviet bloc has been brought under a degree of control which, despite some remaining points of weakness, is impressive. Canada maintains a control system and follows control policies closely in line with those of the United States. The countries of Latin America, which export only a limited number of commodities, primarily raw materials, which have strategic significance, already have stopped exports to the Soviet bloc of many of these materials and have shown a willingness to

cooperate in these and other measures of economic defense and security. In addition, as a result of the resolution recently adopted by the United Nations, trade between many other countries and Communist China will be prohibited in respect to arms, ammunition, implements of war, petroleum, atomic energy materials, transportation equipment of strategic value and items used in the production of arms, ammunition and implements of war.

c. It is the countries of Western Europe, however, in which the matter of controls over trade with the Soviet bloc is of the highest continuing importance. This is an area in which the problems of proximity to the Soviet bloc and of dependence upon supplies obtained in trade with the Soviet bloc present themselves in acute form. It is an area, also, in which maximum strength is critically needed. Most of the countries of Western Europe have maintained for some time an embargo upon the shipment of arms, ammunition and implements of war and atomic energy materials to the Soviet bloc. Even before the outbreak of hostilities in Korea, they had extended this embargo to cover a significant number of other goods which though not military weapons, are nevertheless considered to be of high strategic importance. Since Korea, the embargo has been further extended to cover most of the goods which the United States regards as of primary strategic significance. In addition, quantitative limitations have been imposed upon the movement of a considerable range of other goods.

d. These results have not been achieved by coercion. They have been brought about by a cooperative approach to a mutually acceptable solution for a common problem. Further progress can best be gained by continuing this approach. There remain, as has been stated, gaps and defects in the controls of recipient countries over the movement of strategic commodities. Every effort should be taken to repair these gaps and defects. The National Security Council can neither ignore nor condone these deficiencies and shortcomings, as would be implied if it were to adopt the second alternative suggested above.

e. The National Security Council therefore rejects this alternative as not compatible with the security interest of the United States.

11. Third Alternative

The third alternative, that is, the continuation of United States economic and financial assistance, while an immediate re-examination is made of the situation with respect to each country,

will maintain the strength of the free world to the important degree to which that strength depends on assistance from the United States originally granted with that object in view. This course avoids the coercive approach of discontinuing assistance, whether temporarily or finally, before full examination of each case. No free nation can be expected to accede under pressure to the controls called for by another country's legislation, even when it is in accord with the general objective of such legislation. This course avoids the kind of action which could force some nations to a determined neutrality and might force others to adopt such a course as an alternative to their present cooperation. It offers the opportunity to achieve those additional results in respect to controls on trade with the Soviet bloc which are consistent with the over-all security interests of the United States. It is our intention vigorously to seek the establishment of such additional controls. Toward this end the Department of State has already initiated further discussions with other governments in the light of Section 1302.

IV. Determination

12. The National Security Council, in view of the foregoing considerations, determines that it would be to the security interest of the United States to make a general interim exception from the provisions of Section 1302 for all countries now receiving economic and financial assistance from the United States. This interim exception will be superseded as rapidly as possible by determinations of the National Security Council in respect to specific countries or areas in the light of the most recent information concerning their position.

V. Instructions

13. The National Security Council notes that the President has directed the responsible executive departments and agencies of the U. S. Government to continue and intensify their efforts toward the correction of remaining deficiencies in the controls of countries receiving United States economic or financial assistance over exports of strategic commodities to the Soviet bloc.

14. The National Security Council directs its Special Committee on East-West Trade, with such assistance as may be required from the departments and agencies concerned, to reexamine as rapidly as possible and keep under continuing scrutiny in the light of Section 1302, the trade patterns with the Soviet bloc of countries receiving U. S. economic or financial assistance, in order to enable the Council to determine:

a. Whether the country concerned has met the requirement of Section 1302 with respect to its controls over trade with the Soviet bloc, or, if not, the extent to which the requirements have been or can be met.

b. Whether, in the absence of compliance with the requirements of Section 1302:

(1) It is in the security interest of the United States that the interim exception be withdrawn and assistance terminated; or

(2) It is in the security interest of the United States, in the light of all considerations, that assistance be continued and the interim exception replaced by a specific exception.

This reexamination should take into account, among other considerations, the strategic importance of the remaining trade with the Soviet bloc, what additional controls or other measures can be taken to eliminate such trade as contributes significantly to the military potential of the Soviet bloc, the importance of U. S. aid extended, the importance of imports received from the Soviet bloc, and the extent to which a country embargoes the export to the Soviet bloc of basic strategic items and exercises appropriate controls over exports of other articles.

15. The National Security Council directs its Executive Secretary to declassify and transmit this Council document as the National Security Council's report to the Committees of Congress named in Section 1302.

APPENDIX 1

CERTIFICATION BY THE SECRETARY OF DEFENSE TO THE
ECONOMIC COOPERATION ADMINISTRATOR PURSUANT
TO SECTION 1302

COPY

THE SECRETARY OF DEFENSE
Washington

June 5, 1951

Dear Mr. Foster:

There is attached herewith Certification No. 1, called for by Section 1302 (a) of the Third Supplemental Appropriation Act, 1951 (Public Law No. 45, approved June 2, 1951).

In view of the urgency of the matter, I have incorporated by reference the contents of several lists which have previously been promulgated by certain Departments of the Government. This will help to meet the early deadlines in the law inasmuch as these lists are already in the hands of the several Departments and the definitions are well understood. Since a number of articles and materials are present on two or more of these lists, there is necessarily a certain amount of duplication. These lists, moreover, were originally prepared with different purposes in mind, and the commodities enumerated therein vary in their strategic importance to the trade of the Soviet bloc. As you are aware, determinations as to which items on these lists (other than arms, ammunition and implements of war, and atomic energy materials) are regarded as of primary strategic importance have been made by the interdepartmental Advisory Committee on Export Policy on which the Department of Defense is represented.

The Department of Defense will add to or remove items from this Certification as it may consider necessary on the basis of further study.

Faithfully yours,

(signed) G. C. Marshall

Enclosure - 1

Honorable William C. Foster
Administrator
Economic Cooperation Administration

COPY

June 5, 1951

CERTIFICATION NO. 1 TO THE ADMINISTRATOR,

ECONOMIC COOPERATION ADMINISTRATION

Pursuant to the authorization and direction contained in Section 1302 (a) of the Third Supplemental Appropriation Act, 1951 (Public Law No. 45, approved June 2, 1951), I, GEORGE C. MARSHALL, Secretary of Defense, do hereby certify that the "articles or commodities" referred to therein are those contained in the following lists:

1. Presidential Proclamation 2776, "Enumeration of Arms, Ammunition and Implements of War" (Att. 1).
2. Lists A and B of the Atomic Energy Commission (Att. 2).
3. Positive List of Commodities of the Department of Commerce (Att. 3).
4. The Supplemental List of the Department of Commerce (Att. 4).
5. Department of Defense Stockpile List (Att. 5).

(signed) G. C. Marshall

APPENDIX 2

LIST OF COUNTRIES RECEIVING UNITED STATES ECONOMIC OR FINANCIAL
ASSISTANCE

EUROPE

Austria
Belgium and dependent
overseas territories
Denmark
France and dependent
overseas territories
Greece
Iceland
Ireland
Italy
Luxembourg
Netherlands and dependent
overseas territories
Norway
Portugal
Sweden
Trieste
Turkey
Western Germany
UK and dependent
overseas territories

NEAR AND MIDDLE EAST

Afghanistan
Ceylon
Egypt
Ethiopia
India
Iran
Iraq
Israel
Jordan
Lebanon
Liberia
Libya
Nepal
Pakistan
Saudi Arabia
Syria

LATIN AMERICA

Argentina
Bolivia
Brazil
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Ecuador
El Salvador
Guatemala
Haiti
Honduras
Mexico
Nicaragua
Panama
Paraguay
Peru
Uruguay
Venezuela

FAR EAST

Burma
Indochina
Indonesia
Japan
Korea
Ryukyu Islands
Nationalist China
Philippines
Thailand

OTHER

Canada
Southern Rhodesia
Spain
Yugoslavia